

Free Livestock

Range in Missouri



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The practice of turning livestock out to graze on lands from which they are not fenced, regardless of ownership, is termed free range or open range grazing. It has been practiced in Missouri since earliest settlement and continues in some Ozark counties today. It was a practical economic use of the land in sparsely settled areas in pioneer days, but when carried on today in more densely settled areas, where often the only unfenced lands are woodlands, it often results in severe overgrazing of forage plants, destruction of tree seedlings, compaction of forest soils, and damage to wildlife habitat.

To bring records of free range up to date, a compilation was made of replies to questionnaires sent to 52 County Agricultural Extension Agents in southern Missouri in 1960. This report also documents the continuing shrinkage of free range, and makes more readily available previous compilations of free range area.

The legal basis of free range was reviewed recently by Porter and Miller (1958), who wrote:

"Missouri, contrary to states east of the Mississippi River, but in accord with the Great Plains and Western states, takes the basic view that owners of animals need not fence them in; instead the landowner must fence them out if he does not want them on his land. This 'free range' law came from the Laws of the Louisiana Territory as adopted in 1808. Under that act, which is almost identical to our present Enclosure Act,¹ all fields are required to be enclosed with a fence of certain specifications. If a field or farm is enclosed with a lawful fence . . . , the owner of animals which break through it and enter the field will be liable for their trespass. If the landowner does not have a lawful fence as provided in the statute, he cannot recover damages for other people's livestock running upon his land.

"It is easy to understand, in view of the types of agriculture carried on in some parts of Missouri, that a law which requires a landowner to fence roving animals off his land would not be in complete favor. To alleviate this obvious dissatisfaction, the Missouri legislature of 1883 passed a law which left it optional with the people of a particular county or township whether they wanted to restrain livestock from running at large or any one particular type of animal from running at large.²

"This statute which is substantially unchanged today, provides (if adopted) that it shall be unlawful for the owner of sheep, cattle, horses, asses, swine or goats to allow the same to run at large outside their enclosure and that the owner shall be liable for all damage they cause while unrestrained. . . .

"In counties and townships which have adopted this act (Optional Stock Restraint Act), the Enclosure Act is completely superseded and there is no duty to fence roving livestock off the land. *Instead the owner of livestock must fence them in or be strictly held liable for all damages done while the animals are at large.* It is no defense that the person damaged had poor fence or no fence at all. . . .

"The Optional Stock Restraint Act applies only if a majority of the legal voters in a county or township have voted to accept it. Otherwise, the Enclosure Act stays in effect and landowners must fence livestock out (free range)."

Agitation for a stock control law began at least as early as 1872, when the State Board of Agriculture sent out a questionnaire on the subject. Replies were received from persons in about 87 counties; 24 percent felt that their counties would support a stock control law. Fourteen percent were noncommittal or neutral, and over 60 percent wished to retain free range or thought a stock law would not be accepted (McKinley, 1960).

RECENT STATUS OF FREE RANGE

With passage of the Optional Stock Restraint Act in 1883, free range began to disappear, especially in northern and western Missouri. By 1934-35, free range was permitted in only 25 of the state's 114 counties (Bennitt and Nagel, 1937).

The map presented by Bennitt and Nagel (*op. cit.*), and a tabulation of this material which subsequently appeared in 1939 (Bennitt), was the first published listing of free range areas in the state. Its appearance presumably was stimulated by the growing interest in forestry and wildlife management, and an awareness that free range was a factor affecting forest and game management as well as other uses of the land. Data were compiled again in 1939 and in 1948 by Bennitt, documenting the continuing decrease in the area permitting free range. Martin (1955) presented a map depicting the free range area of the state, but he included no tabulation of free range townships.

¹Missouri Revised Statutes, 1949, Section 272.010.

²Missouri Revised Statutes, 1949, Section 270.010.

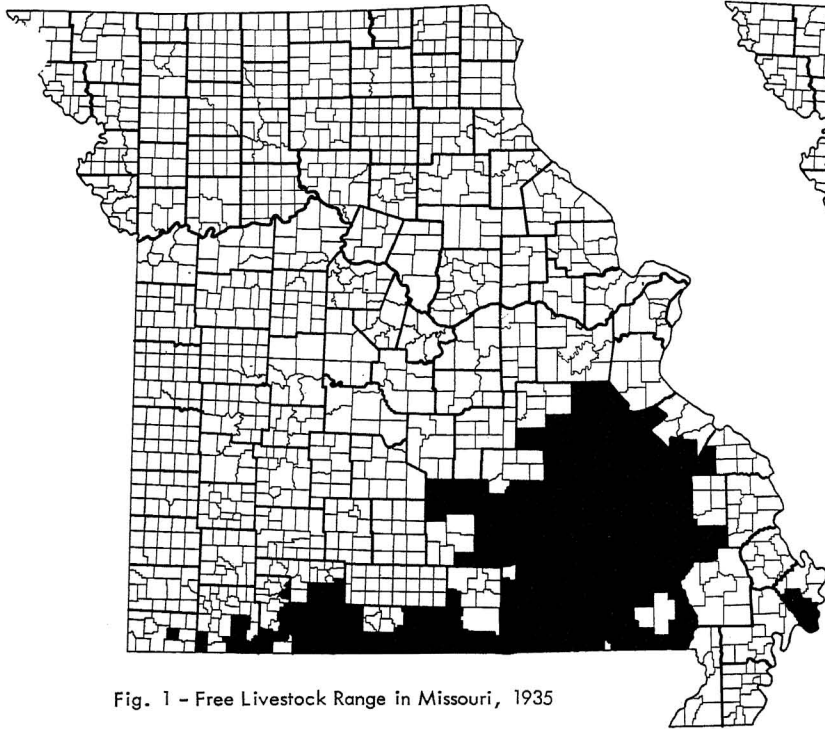


Fig. 1 - Free Livestock Range in Missouri, 1935

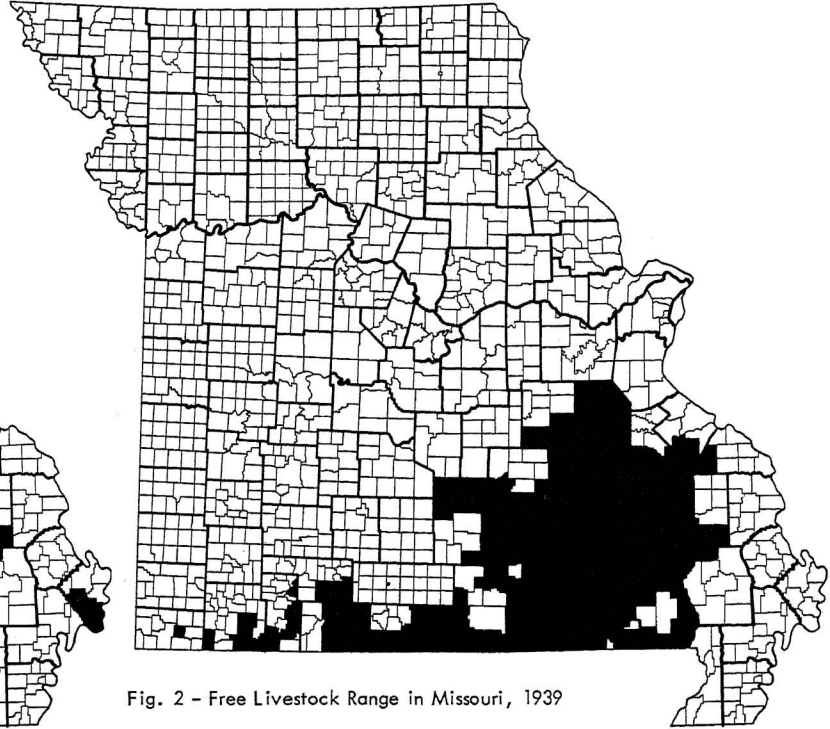


Fig. 2 - Free Livestock Range in Missouri, 1939

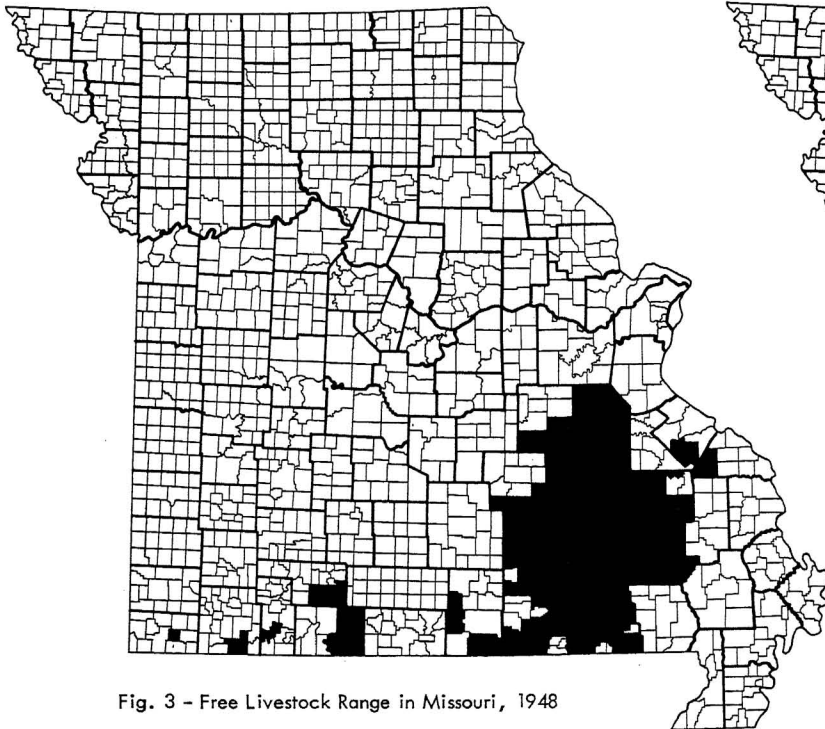


Fig. 3 - Free Livestock Range in Missouri, 1948

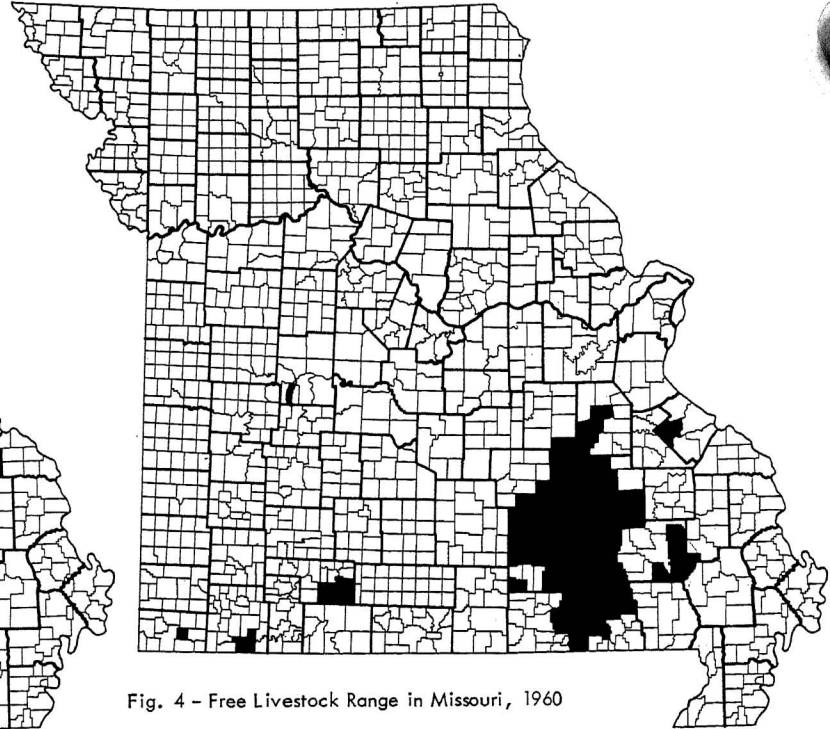


Fig. 4 - Free Livestock Range in Missouri, 1960

Table 1 lists the counties and townships which now permit free range. In a few townships free range has been

TABLE 1-FREE RANGE TOWNSHIPS IN MISSOURI, 1960

County	Townships
Barry	Roaring River
Carter	Entire county
Christian	Chadwick, Garrison, Lead Hill, Linn, Oldfield, Seneca (horses, mules and cattle only)
Crawford	Osage
Dent	Gladden, Linn, Osage, Sinking
Iron	Dent, Kaolin, Liberty, Union
McDonald	Cyclone
Oregon	Cedar Bluff, Ozark, King, Johnson, Goebel
Reynolds	Entire county
Ripley	Pine, Kelley, Jordan, Johnson, Sherley, Gatewood
Ste. Genevieve	Union
Shannon	All except Bartlett, Birch Tree, Montier
Washington	Harmony, Liberty, Walton
Wayne	Cowan, Jefferson, Lost Creek; cattle only - Black River

closed to sheep, goats, and hogs. In 1960, the open townships in Christian County were open only to horses, cattle, and mules; Black River township in Wayne County was open only to cattle.

Table 2 is a comparison of the square miles of free range per county in the years 1935, 1939, 1948, and 1960. In a few cases, corrections were made in figures used in the earlier reports, to make them conform to the area figures compiled by the Census Bureau (Anon., 1942). Resurveys had slightly altered earlier figures in Christian and Reynolds counties. Part of the Ripley County data had been transposed in the 1948 report, and the open range township in McDonald County was overlooked in earlier reports, but was then open, according to the County Agent. These reports were corrected and totals were recomputed.

During the 25 years from 1935 to 1960, 11 counties with some free range voted complete closure. Only two entire counties, Carter and Reynolds, now have free livestock range. The total reduction in free range during this period was 7,100 square miles, or 62.4 percent of the 1935 total. There has been a 42.8 percent decrease in free range

since 1948. The reduction is shown graphically in Figures 1 through 4. The rate of decrease, as Bennett noted in 1948, has been greatest in the western Ozarks. In 1960, as shown in Table 2, only 4,283 square miles of free range remain.

TABLE 2-COMPARISON OF FREE RANGE AREAS IN MISSOURI BY COUNTIES, 1935-1960

County	Free Range Area In Square Miles			
	1935	1939	1948	1960
Barry	209	209	69	69
Bollinger	258	258	0	0
Butler	487	487	0	0
Carter	506	506	506	506
Christian	153	153	153	167
Crawford	347	347	347	133
Dent	338	338	279	228
Howell	367	523	270	0
Iron	553	553	553	347
McDonald	25	25	25	25
Madison	499	499	393	0
Mississippi	173	0	0	0
Oregon	778	778	522	165
Ozark	542	542	0	0
Perry	90	90	90	0
Reynolds	822	822	822	822
Ripley	612	589	569	361
St. Francois	458	196	0	0
Ste. Genevieve	108	108	108	86
Shannon	958	958	958	870
Stone	158	158	40	0
Taney	655	457	289	0
Texas	771	771	0	0
Washington	741	741	741	220
Wayne	775	775	775	284
Total	11,383	10,883	7,509	4,283

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